

JUNAID v DEPT of ARMY  
ARCCAD09JUL02824  
EEO Investigation Case File  
11039CCAD

1

1 REPORTER'S RECORD  
2 VOLUME 1 OF 1 VOLUMES  
3 \* \* \* \* \*  
4 ACTIVITY DOCKET: ARCCAD09JUL02824  
5 IRD FACT FINDING CONFERENCE  
6 NOVEMBER 3, 2009  
7 COMPLAINANT MURPHY JUNAID  
8 \* \* \* \* \*

9 APPEARANCES:

10 THE INVESTIGATOR:

11 MS. CAROLYN K. BROWN  
12 Department of Defense  
13 Civilian Personnel Management Service  
14 Investigations and Resolutions Division  
15 1224 Wings Way  
Cantonment, FL 32533  
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16 AGENCY REPRESENTATIVE:  
17 MR. KENNETH MUIR

18 COMPLAINANT:  
19 MR. MURPHY JUNAID

20 COMPLAINANT REPRESENTATIVE:  
21 MS. AMY BECKETT (BY PHONE)

22 On NOVEMBER 3, 2009, between the hours of 8:50 a.m. and  
23 1:55 p.m., the following Fact Finding Conference was  
24 held in the above-entitled cause before the INVESTIGATOR  
CAROLYN K. BROWN, held at the Corpus Christi Army Depot,  
308 Crecy Street, Corpus Christi, Texas 78419-5260.

25 Proceedings reported by machine shorthand.

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EXHIBIT J

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1 vacancy announcement WTAA09241338D, the closing date is  
2 January 29th, 2000--and -- excuse me. The opening date  
3 was January 23, 2009. The closing date was February 6,  
4 2009. How did you first learn about that vacancy  
5 announcement?

6 A. It was announced through -- by Civilian  
7 Personnel Office --

8 Q. Okay.

9 A. -- sent to all CCAD employees, I believe.

10 Q. And it was circulated and posted and announced  
11 generally?

12 A. Yes.

13 Q. Okay. And you took a look at that announcement  
14 and assessed the requirements of the job and then went  
15 ahead and you met that closing date of February 6th?

16 A. Correct.

17 Q. Okay. And nowhere on this announcement did it  
18 say anything about supervisory experience; correct? It  
19 just said there's a basic requirement that you had to  
20 have a Bachelor's Degree?

21 A. Correct.

22 Q. Okay. Now, the next vacancy announcement that  
23 we see, it has an opening date of April 2nd and a  
24 closing date of April 15th and it is WTAA09241338R.  
25 When did you first learn that the position had been

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1 reposted?

2 A. Through -- By E-Mail, also, from Civilian  
3 Personnel.

4 Q. Okay. What was your reaction when you saw that  
5 it had been reposted?

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6 A. I was surprised, just like all the other  
7 engineers who put in for the first one.

8 Q. And directing your attention to the bottom of  
9 that announcement, under the word "General Schedule", it  
10 now discusses qualifying experience requiring one year  
11 of specialized experience involving supervisory  
12 experience. Was that a change from the earlier  
13 announcement?

14 A. Correct. It was a change.

15 Q. Okay. And the change was -- what -- to  
16 require --

17 A. -- minimum one year supervisory experience.

18 Q. Okay. And at that time did you meet that  
19 minimum one year supervisory experience?

20 A. Yes, I did, because I was -- when I was working  
21 at the Red River Army Depot in Texarkana, I acted as a  
22 supervisor and also as a Director while I was there.

23 Q. Had there been any other changes that you  
24 noticed when the job was reposted or is that the only  
25 change?

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1 A. Probably the only changes.

2 Q. Okay. And in what way do you believe that Gary  
3 Hogg was better positioned now to be able to apply for  
4 the position with the change requiring supervisory  
5 experience, unlike the previous announcement?

6 A. Because he was the supervisor for the KBSI  
7 contractor and I think that's the only thing that he has  
8 to justify him being selected for that position.

9 Q. Could you expand on that a little bit, meaning  
10 although you both had supervisory experience, you felt

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11 that that was the only distinguishing qualification that  
12 he had as opposed to your experience in the Depot?

13 A. Well, I have worked with the Government for 12  
14 years. And he's -- I don't know how long he has been at  
15 the Corpus Christi Army Depot, but he has never worked  
16 directly for the Government. He's been working as a  
17 contractor.

18 Q. Do you know what the nature of his supervisory  
19 experience was as a contractor?

20 A. Well, he supervises, at least now, before  
21 coming here, just like five employees --

22 Q. Okay. Five employees.

23 A. -- and most of the jobs have been done by the  
24 employees. He has never done any actual work, but just  
25 supervises them.

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1 Q. Okay. But he actually had done supervisory  
2 work that now met this new requirement in the amended  
3 vacancy announcement?

4 A. Correct.

5 Q. Okay. And what was the reaction to this change  
6 among your other colleagues who were interested in the  
7 position. You said that all of you were surprised. Can  
8 you remember some of those reactions?

9 A. Yeah, we discussed it and we were saying:  
10 "Well, why wouldn't Mr. Kresten Cook select any one of  
11 us?"

12 Q. And when you say "we discussed it," could you  
13 name some of the other colleagues who discussed that?

14 A. Edward Cooper, Mel Avila.

15 Q. And Mr. -- And why don't you stop and indicate

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- 2 today and your testimony will be a part of the record?
- 3 A. Yes, I do.
- 4 Q. Okay. I will ask you to state your full name
- 5 and spell your last name for the record, please.
- 6 A. My name is Kresten Lloyd Cook. What else am I
- 7 supposed to do?
- 8 Q. Spell your last name.
- 9 A. Last name C-O-O-K.
- 10 Q. Okay. And your current position title?
- 11 A. Director of Engineering Services.
- 12 Q. And your current job series and grade?
- 13 A. Let's see. I am a YF-03. I believe it is
- 14 "Supervisory General Engineer".
- 15 Q. And that job series number is?
- 16 A. I want to say 301. I'm not -- I don't recall
- 17 exactly.
- 18 Q. And how long have you held that position?
- 19 A. I've been Director for about six years.
- 20 Q. Okay. And what organization do you work in?
- 21 A. I work for the Corpus Christi Army Depot.
- 22 Q. And totally how long have you been a Government
- 23 employee?
- 24 A. I have been a Government employee since 1983.
- 25 Q. And who is your first level supervisor?

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- 1 A. My supervisor?
- 2 Q. M'hmm. (Nodded.)
- 3 A. That would be Mr. Dennis Williamson.
- 4 Q. Okay. And who is Mr. Williamson's supervisor?
- 5 A. That would be Colonel Joe Dunaway, the
- 6 Commander.

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7 Q. Okay. What is your race?  
8 A. White.  
9 Q. What is your color?  
10 A. White.  
11 Q. What is your national origin?  
12 A. U.S. Citizen.  
13 Q. Okay. And what is your year of birth?  
14 A. 1958.  
15 Q. And what was your role in the selection  
16 process?  
17 A. For the Industrial Engineering supervisory  
18 position?  
19 Q. Correct.  
20 A. I was the selecting official.  
21 Q. Okay. And describe for me the selection  
22 process.  
23 A. First of all, we review the resumes that are  
24 referred to us from the Civilian Personnel Advisory  
25 office and we go through the resumes and determine the

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1 best qualified candidates of those resumes, and then we  
2 set up interviews with each of these candidates.  
3 And I panel the interview. This time I  
4 paneled it with Marc Gonzalez and Luis Salinas.  
5 Basically, set up questions, you know. I think it was  
6 four questions that we had on the interview. I got  
7 together with the panel before and explained the  
8 questions to them. We agreed on them.  
9 And then we agreed, as a group, kind of  
10 what we were looking for in the answers from the  
11 candidates for each question. So, when the candidate

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12 came in, basically, you know, we are evaluating the  
13 response and the answers to the questions, you know,  
14 based on what we are looking for. Like one questions  
15 was like on teamwork and we are looking for examples of  
16 teamwork, that kind of stuff.

17 The other part of it is a review of the  
18 resume itself. And, you know, you are looking for  
19 experience and factors in that resume that will give us  
20 a good indication that person will be a successful  
21 supervisor in the Industrial Engineering Division.

22 Q. All right. Let me go back a couple of steps  
23 here. How many people did you interview for this  
24 position?

25 A. If I can look at the record. I don't know the

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1 number exactly.

2 THE WITNESS: (Addressing Mr. Muir) Do  
3 you have interview notes there, Ken?

4 MR. MUIR: I'm passing from the tab for  
5 Mr. Cook the first page.

6 A. (Perused documentation.) Looks like eight.

7 Q. Okay. So you conducted eight interviews?

8 A. M'hmm. (Nodded.)

9 Q. Okay. And who appointed the panel members?

10 A. I appointed the panel members.

11 Q. And what was the purpose of the panel?

12 A. It's to provide -- to have three people sit in  
13 on the interviews and provide their perspectives of the  
14 different candidates.

15 Q. Okay. And who asked you to chair the panel?

16 A. I guess no one asked me to chair the panel.



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1 their "Number 1 Choice", "Number 2", "Number 3". Okay.

2 In that scenario, was that the way that it  
3 occurred or just did the three of you come together and  
4 then make your selection?

5 A. Well, I asked each of the panel members to not  
6 discuss the interviews until we were finished with all  
7 of them. Go, themselves, individually, and rank the  
8 candidates, you know, a "Top 1", "2" and "3" candidate.

9 Once they did that, we got together as a  
10 group and discussed our "Top 1", "2" and "3" as a group  
11 and came to a consensus of, you know, the "Number 1",  
12 "2" or "3".

13 And from that point, we went and checked  
14 references, you know, talked to previous supervisors,  
15 things like that, to confirm, you know, which the best  
16 candidate would be of the three.

17 Q. In regards to the eight interviews that you  
18 conducted, do you remember where the Complainant ranked?

19 A. He was not in the "Top 3" of any of the  
20 panelists' recommendations including myself.

21 Q. Okay. Were you aware of the Complainant's  
22 race?

23 A. Yes.

24 Q. Were you aware of the Complainant's color?

25 A. Yes.

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1 Q. Were you aware of the Complainant's age?

2 A. No.



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13 candidate for this position?

14 A. No.

15 Q. Was the Complainant's race a factor in your  
16 taking the action at issue --

17 A. No, it was not.

18 Q. -- in other words, during the selection?

19 Okay. Was the Complainant's color a  
20 motivating or influencing factor into the action taken?

21 A. No.

22 Q. Was the Complainant's age a motivating or  
23 influencing factor in the action taken?

24 A. No.

25 Q. Was the Complainant's national origin a factor

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1 in your taking the action at issue?

2 A. No.

3 Q. Why did you select those particular two members  
4 for the panel?

5 A. These are the other two Division Chiefs.  
6 Engineering Services is made up of four divisions. The  
7 Facilities Chief and Equipment Maintenance Chief would  
8 be the peer of the Industrial Engineering Chief.

9 Basically, they are equivalents. So,  
10 basically, they would be working with this person  
11 closely and they also had a good knowledge of the type  
12 of skills and requirements it took to do the job since  
13 they were doing that division level job themselves.

14 Q. Did you provide any feedback to the Complainant  
15 regarding his interview?

16 A. I offered the feedback to all of the candidates  
17 that were not selected. I understand not being selected

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18 is a tough thing and sometimes people, you know, feel  
19 that they are definitely the best qualified. That's  
20 happened to me.

21 And what I offered each of them was a  
22 post-interview feedback session where I could say:  
23 "Here is where you did great." "Here is where I think  
24 you could, you know, plus-up and develop some skills in  
25 this area to be more successful in the future."

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1 Q. So, from your perspective, the feedback that  
2 you wanted to provide, not just to the Complainant, but  
3 to anyone that requested it that you interviewed, was to  
4 provide them feedback regarding their own personal  
5 interview?

6 A. Yes.

7 Q. Was the feedback ever intended to justify your  
8 selection of the selectee for the position?

9 A. No, that's not the purpose of feedback  
10 sessions.

11 Q. Now, let's talk about these announcements  
12 because I must admit it's -- it's confusing.

13 A. Okay.

14 Q. Okay. We have four announcements. Kind of  
15 tell me what went on here, I guess, with the first  
16 posting. The one I have says that the cert expires on  
17 May the 15th. And the last four digits is 1338.

18 And there are a number of people on this.  
19 I apologize. I don't have a job announcement, but I  
20 will get that before I leave.

21 But the one that I am looking at says that  
22 there were ten applicants, nine males and one female,

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20 grade, so you apply as an external candidate and they  
21 consider your experience outside of the Government.

22 A. Okay.

23 Q. When you have a time and grade, usually for  
24 Government employees means that I've got to be a  
25 G.S. -- whatever -- 11, 9, 12, for twelve months. If

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1 I don't meet that, I can go outside and do an external  
2 and they can count my experience someplace outside of  
3 the Government as meeting that.

4 A. Okay. I didn't --

5 Q. I mean is that --

6 A. Yes. I -- that makes sense to me. (Laughs.)

7 Q. Okay. All right. So, all right. You made  
8 from the second choice. All right. So let's kind of  
9 put away --

10 Were any selections made on these two?  
11 And when I say "these two", the 1338 and the 1338D as in  
12 David.

13 A. No, that was -- we -- we closed down that job  
14 announcement because we needed to clarify the position  
15 description.

16 Q. Okay. So there was no selections made --

17 A. No selection.

18 Q. -- on either one of those?

19 A. No.

20 Q. Then the position was reposted?

21 A. Correct.

22 Q. And a selection was made from those two?

23 A. Yes.

24 Q. And "those two" are 1338R and 1338DR?

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25 A. Correct.

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1 Q. Okay. Let's put away those.

2 THE INVESTIGATOR: Okay. I think that's  
3 all my questions. Mr. Muir, do you have any clarifying  
4 questions?

5 MR. MUIR: I have a few. Can we give  
6 these back to the Investigator first so that --

7 THE WITNESS: Sure.

8 THE INVESTIGATOR: Oh, yeah. Please.

9 (Witness complied.)

10 THE INVESTIGATOR: Thank you, sir.

11 E X A M I N A T I O N

12 BY MR. KENNETH MUIR:

13 Q. Mr. Cook, as you recall, you mentioned that the  
14 other two panel members gave you their "Top 3"  
15 candidates. Did they each have the same order of the  
16 "Top 3" or did they have different -- did they choose  
17 different numbers for "1", "2" and "3"? Do you  
18 remember?

19 A. I think we were different, if I remember  
20 correctly.

21 Q. And, in fact, do you recall, did everybody have  
22 the exact same "Top 3" candidates -- I mean not the  
23 order of "1", "2" and "3", but were the names all the  
24 same in all three or was there a little bit of a  
25 difference? Do you remember?

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- 1 A. I don't remember. I would have to look at it.
- 2 Q. Okay. But in any of the "Top 3" panel members'
- 3 lists, was the Complainant one of the "Top 3"?
- 4 A. No.
- 5 Q. I want you to just take a look again at your
- 6 notes that are on the first page under your tab. And
- 7 you assigned some points there. Is that right?
- 8 A. Yes.
- 9 Q. Who did you put as "Number 1" as far as points?
- 10 A. Let's see. Point-wise, that would be
- 11 Mr. Steven Connor.
- 12 Q. And who did you put "Number 2" and "3"?
- 13 A. "Number 2" would be Ron Brychta and "Number 3"
- 14 Gary Hogg.
- 15 Q. And if I understand correctly, the other two
- 16 panel members ranked those candidates -- they changed up
- 17 the "1", "2" and "3" from what you had done?
- 18 A. Correct.
- 19 Q. So why did you decide -- and you may have
- 20 already answered this -- but why did you decide not to
- 21 go with your "Number 1" candidate, who was Mr. -- who
- 22 what was that again?
- 23 A. Mr. Connor.
- 24 Q. Mr. Connor. Okay.
- 25 A. I did some reference checks on Mr. Connor,

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- 1 talked to his previous supervisor and did not have a
- 2 good report on his ability to be a good Division Chief.
- 3 Q. Okay. And what about the "Number 2" candidate
- 4 that you had put as far as points?
- 5 A. Same thing. I -- I just -- Some questions

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6 were raised in a reference check that indicated that,  
7 you know, he probably was not the best candidate for the  
8 job.

9 Q. And did you do reference checks for the third,  
10 for Mr. Hogg?

11 A. Yes, I did.

12 Q. And were those satisfactory?

13 A. That was satisfactory.

14 Q. Did you do that one yourself or did you get  
15 somebody else?

16 A. Yes, I did that.

17 Q. And did you mention to the other two panel  
18 members that you were going to end up selecting  
19 Mr. Hogg?

20 A. Yes, I did.

21 Q. What did they think about that, if you recall?

22 A. We got together after the interviews and  
23 everybody had selected their "Top 3". We talked about  
24 the references that were made and everything and we came  
25 to an agreement as a group that, overall, Mr. Hogg would

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1 be the top candidate.

2 Q. Did any of the other two panel members, did  
3 they help you with the reference checks on those  
4 "Top 3"?

5 A. Yes, they did.

6 Q. Did you do reference checks on the Complainant?

7 A. No.

8 Q. I would like you to look at your interview  
9 notes that you took from Mr. Murphy.

10 A. M'hmm. (Nodded.)

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11 Q. And, I'm sorry, Mr. Junaid and also from  
12 Mr. Hogg.

13 well, let me just ask you before you look  
14 at those notes: In the interviews, was there a  
15 difference in who did better in the interviews between  
16 Mr. Hogg and Mr. Junaid?

17 A. It was pretty close. Let's see. Mr. Junaid, I  
18 scored him in "interview" as 11 and Mr. Hogg had 13  
19 points. So, the higher points -- there's a two-point  
20 difference.

21 Q. I would like you to take a look at the answers  
22 to question number 4, which dealt with leadership  
23 skills, and I would like you to compare the answers  
24 given by Mr. Junaid and the answers given by Mr. Hogg in  
25 regards to question number 4.

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1 A. Okay. The question is: "what leadership  
2 skills do you possess and how are you developing them?"  
3 And let's see. My notes from Mr. Junaid's interview was  
4 he mentioned taking leadership training courses, he  
5 worked with those who need help, he is looking at A.K.O.  
6 leadership training.

7 And then in Mr. Hogg's response to the  
8 same question, he talked about leading a team of 6 to 20  
9 personnel for 11 years, recognizing and applying  
10 people's skills, working on minimizing conflicts in a  
11 group, how he learned every day from others. He talked  
12 about some of the books he had studied in leadership,  
13 emphasized his technical background, mentioned his  
14 leadership experience at Texas Instruments and how he is  
15 working on flexibility as a supervisor.



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17 the "R" list that I just read.

18 Q. In other words, most of the time you have a  
19 cert list and then you make a selection.

20 A. Yes.

21 Q. In other words, the Complainant is not on both  
22 of those lists.

23 A. Correct.

24 Q. So the Complainant is only on one list that you  
25 did not make a selection from.

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1 A. That is correct.

2 Q. So that's what I'm trying to figure out. If we  
3 are talking about this list, he is not qualified and on  
4 this list; but this is the list that you made the  
5 selection from.

6 A. But I interviewed all the candidates from both  
7 lists.

8 Q. So you did a combination of both of them?

9 A. Yes, yes.

10 Q. Okay. That's what I needed to know -- whether  
11 or not it was a combination or if you selected from  
12 one.

13 A. No. I interviewed eight people and there's  
14 eight people on these lists combined.

15 Q. Okay. That's what I needed clarification on.

16 A. Okay.

17 Q. Because there was like six on that one and I  
18 think four on that one.

19 A. But some of them showed up on both lists.

20 Q. Great. That's what I needed to know.

21 A. Two of them showed up on both lists. I

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22 interviewed eight candidates.

23 Q. Okay. Great.

24 A. So, I interviewed everybody from both lists.

25 Q. Okay. Okay. Great. That's what I needed to

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11.03.09/JUNAID MURPHY JUNAID REBUTTAL

1 know. Thank you very much for that clarification.

2 A. Sure.

3 THE INVESTIGATOR: We are back to you for  
4 your rebuttal. You've heard Mr. Cook's testimony.  
5 You've heard his reasons as to why you were not  
6 selected. You have heard his testimony explaining your  
7 interviews versus the selectee's interviews.

8 So, now is the time for you to tell me,  
9 after hearing all that, what is your rebuttal to his  
10 testimony?

11 THE COMPLAINANT: Well, according to his  
12 testimony, he said he selected Gary Hogg. As I said  
13 before, Gary Hogg has never worked directly for the  
14 Government. He was a contractor. He does not know  
15 exactly how Government works.

16 In the job description, it listed what job  
17 requirements a supervisor position was. The job  
18 description described exactly what is in Government that  
19 we do as Government employees. He has no knowledge of  
20 that compared to myself or any other engineers in the  
21 Engineering Division.

22 why was he selected since he has no --  
23 that knowledge? what he is doing now is now learning  
24 how Government works, which there are 14 of us who are  
25 currently industrial engineers in that division who have

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3 Let's go on, then, and let me find out who is our next  
4 witness. Everybody just stay right where you are at and  
5 let me go get -- hopefully, the next witness is outside  
6 and we will get on to the next one.

7 Oh. We will excuse Mr. Cook. Mr. Cook, I  
8 will ask you to not talk openly, obviously, about the  
9 proceedings and only on an "as need to know" basis,  
10 please.

11 (Mr. Cook exited the room at 11:17 a.m.;  
12 after which, there was a brief pause from 11:17 a.m. -  
13 11:25 a.m.)

14 THE INVESTIGATOR: We will go back on the  
15 record. It is 11:25 and we have been joined in the room  
16 by Mr. Salinas, Mr. Luis Salinas.

17 MR. SALINAS: Yes, ma'am

18 THE INVESTIGATOR: And then all the other  
19 participants are in the room.

20 Mr. Salinas, I will ask for you, please,  
21 to raise your right hand.

22 (Witness was duly sworn.)

23 THE INVESTIGATOR: And, Mr. Salinas, let  
24 me ask you: Have you had the chance and opportunity to  
25 read the Privacy Act?

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1 MR. SALINAS: Yes, ma'am.

2 THE INVESTIGATOR: Do you have any  
3 questions about that, sir?

4 MR. SALINAS: No, ma'am.

5 THE INVESTIGATOR: Do you understand that  
6 your testimony here today will be a matter of the  
7 record?

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8 MR. SALINAS: Yes.

9 LUIS HUMBERTO SALINAS,  
10 the witness, having been duly sworn, testified as  
11 follows:

12 E X A M I N A T I O N

13 BY THE INVESTIGATOR:

14 Q. I will ask you to state your full name and  
15 spell your last name, please, for the record.

16 A. My name is Luis Humberto Salinas,  
17 S-A-L-I-N-A-S.

18 Q. Okay. And what is your current position title?

19 A. I am Chief of Facilities Engineering Division.

20 Q. Okay. And what is your job, series and grade?

21 A. I think it is an 800 series, but it's now a  
22 YF-02 is my grade.

23 Q. And how long have you held your current  
24 position?

25 A. Since November of 2005.

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1 Q. And what organization do you work in?

2 A. Facilities Engineering under the Director of  
3 Engineering Services.

4 Q. Okay. At Corpus Christi --

5 A. Corpus Christi Army Depot.

6 Q. -- Army Depot. Okay. Thank you.

7 And how long have you been a Government  
8 employee?

9 A. For 32 years.

10 Q. Oh, wow. Good. Good for you.

11 (Laughter.)

12 Q. And who is your current first level supervisor?

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1 MR. SALINAS: Okay.  
2 THE INVESTIGATOR: Okay? Thank you, sir,  
3 very much.  
4 MR. SALINAS: Thank you.  
5 THE INVESTIGATOR: And we will get our  
6 next participant, so everybody kind of stay put unless--  
7 do you all need to take a break?  
8 MR. MUIR: No.  
9 THE INVESTIGATOR: Great.  
10 (Mr. Salinas exited the room and  
11 Mr. Gonzalez entered.)  
12 THE INVESTIGATOR: Mrs. Beckett, are you  
13 still with us?  
14 MS. BECKETT: I am still here.  
15 THE INVESTIGATOR: Okay. Mrs. Beckett, in  
16 the room -- and we are back on the record. It is 12:00  
17 o'clock noon, if I can see the clock correctly. Okay.  
18 we have been joined by Mr. Marc Gonzalez.  
19 Mr. Gonzalez, I will ask you, please, to  
20 raise your right hand.  
21 (Witness sworn.)  
22 THE INVESTIGATOR: Mr. Gonzalez, I  
23 apologize. Have you met everybody in the room?  
24 THE WITNESS: I have.  
25 MS. BECKETT: Well, I'm counsel for

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1 Mr. Junaid. Amy Beckett here from Washington.  
2 THE WITNESS: Hello.  
3 MARC ANTHONY GONZALEZ,  
4 the witness, having been duly sworn, testified as  
5 follows:

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E X A M I N A T I O N

6

7 BY THE INVESTIGATOR:

8 Q. I will ask you to state your full name and  
9 spell your last name for the record, please.

10 A. It's Marc Anthony Gonzalez. First name is  
11 M-A-R-C. A lot of people get that confused. And  
12 "Gonzalez" is G-O-N-Z-A-L-E-Z.

13 Q. Okay. And you've had an opportunity to read  
14 the Privacy Act statement?

15 A. Yes, ma'am.

16 Q. Do you have any questions about that?

17 A. I do not.

18 Q. Okay. Then what is your current position  
19 title?

20 A. I'm Division Chief of Equipment Engineering and  
21 Maintenance Division.

22 Q. Okay. And what is your job series and grade?

23 A. I am a YC-2 and the series is a 340 - Program  
24 Manager.

25 Q. Okay. And who either hired or promoted you to

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1 your current position?

2 A. I was hired by Kresten Cook approximately 19  
3 months ago.

4 Q. And how long have you, well, held your current  
5 position? I'm assuming 19 months ago.

6 A. Yes, ma'am. Yes.

7 Q. And the organization that you work in?

8 A. In the Director of Engineering Services for  
9 CCAD.

10 Q. And how long have you been a Federal Government

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23 selections such as the one at issue?

24 A. I'm in charge of taking in all resumes. In  
25 this particular case, there was two types of referrals

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1 wanting. There is what we call a "Merit Internal List"  
2 and also an external list which we call "Delegated  
3 Examining Unit" or D.E.U. Okay? The "Merit List"  
4 comprises basically of employees who have some type of  
5 status, whether it be a Federal employee or a Vet. The  
6 D.E.U. is open to all U.S. citizens. And both of them  
7 were issued in this particular case.

8 Q. And then we are going to get into the specific  
9 announcements on this and the numbers and when it was  
10 posted and those kinds of issues in just a moment, too.  
11 But explain to me or describe your involvement.

12 A. When I take in the resumes, for example, on a  
13 Merit List, basically we review all the resumes, but  
14 they first have to go through a screening process. The  
15 manager has identified skills he would like this  
16 position to have and they are compared against those  
17 skills electronically. Once those skills have been  
18 identified, the system basically provides me in  
19 chronological order, the highest to the lowest, the ones  
20 who are rated best qualified for the job based on the  
21 number of skill matches they have. And then I go  
22 through those listings and review the resumes physically  
23 myself to make sure they have those skills, and then I  
24 make the determination of how many to refer to the  
25 Manager.

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1 Q. And was this action at issue, in other words,  
2 the selection, was it handled any differently than the  
3 norm?

4 A. No, ma'am.

5 Q. At the time of your involvement, were you aware  
6 of the Complainant's race?

7 A. No, ma'am.

8 Q. Were you aware of the Complainant's color?

9 A. No, ma'am.

10 Q. Were you aware of his age?

11 A. No, ma'am.

12 Q. Were you aware of his national origin?

13 A. No, ma'am.

14 Q. When did you become aware of his race?

15 A. I really don't make it a point to see what the  
16 race is; but I do have a list, when I do the referral,  
17 it tells you how many male and how many female were  
18 referred, and, also, I believe it says how many  
19 Hispanics and Blacks. I think it breaks even down to  
20 that at that point. And I don't remember the specifics  
21 on that because I really don't -- I just try to make  
22 sure I match the number. If I refer 15, I want to make  
23 sure I have 15 on the list. I don't go any further than  
24 that as far as --

25 Q. So, outside of today, have you ever met the

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1 Complainant before?

2 A. No, ma'am; I have not.

3 Q. Oh. This is the first time that you have ever

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4 met him before --

5 A. Yes.

6 Q. -- or seen him?

7 A. Yes.

8 Q. Okay. I've got to ask this. This seems kind  
9 of silly, but I've got to ask this. Did you consider  
10 the Complainant's race, color, age or national origin  
11 with respect to your involvement in the action at issue?

12 A. No.

13 Q. Did you discriminate against the Complainant  
14 based on his race, color, age or national origin?

15 A. No.

16 Q. Did you have any discussions with the  
17 management officials involved concerning the action at  
18 issue?

19 A. No.

20 Q. To your knowledge, did the management officials  
21 involve all appropriate regulatory guidelines and  
22 directives with respect to the action at issue?

23 A. Yes, ma'am.

24 Q. What were these regulatory guidelines and  
25 directives in filling this position?

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1 A. Our merit system protection -- merit system is  
2 actually what they are, based on their KSA's, their  
3 knowledge, skills and ability.

4 Q. So the Army does not have their own regulations  
5 regarding fulfillment of positions like this -- or do  
6 they?

7 A. We have our own merit principles, yes.

8 Q. Oh, okay.